

Docket No: 38-21(52578)C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Jingrui Wu et al.  
Serial No: 10/678,588  
Filed: 10/02/2003  
For: Yield-Improved Transgenic Plants

Art Unit: 1638  
Examiner: Vinod Kumar

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**FEB 26 2007**

**Amendment After Final**  
**With Petition for Extension of Time**  
**and Notice of Appeal**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action mailed 10/24/2006 with a shortened statutory period of three month to reply, applicant submits herewith:

- (a) the attached petition for a two month extension of time to February 24, 2007, which falling on a Saturday is extended to Monday February 26, 2007;
- (b) the attached notice of appeal; and
- (c) this amendment of claims with request for reconsideration.

**Amendment to the Claims:** Applicant respectfully requests amendment of the claims as indicated in the attached listing of claims and submits that this amendment after final rejection should be entered as it greatly simplifies issues for consideration on appeal and does not present any additional search burden on the examiner. For instance, by this amendment the Section 112 rejection for indefiniteness based on the presence of the term "functionally equivalent" is obviated. Moreover, the Section 112 rejection for lack of enablement based on identifying DNA encoding Hap3 proteins is likewise obviated. And, the Section 112 rejection for failure to comply with the written description requirement of Hap3 proteins is similarly obviated.

**Certificate of Facsimile Transmission** - I certify that this communication ( 7 pages) is being facsimile transmitted to the USPTO at fax number 571-273-8300 on February 26, 2007 on the first working day after the extended period for response expiring on Saturday February 24, 2007.

  
Thomas E. Kelley - Reg. No. 29,938